UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,011	01/29/2001	Nan Feng	JP919990263-US1	9243

7590   06/03/2004

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EXAMINER
CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/772,011	FENG ET AL.
	Examiner	**Art Unit**	
	Azizul Choudhury	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>29 January 2001</u>.
2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-20</u> is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-20</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>29 January 2001</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a) ☐ All　b) ☐ Some * c) ☐ None of:
　　　1. ☐ Certified copies of the priority documents have been received.
　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 103

Claims 1-20 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the

alternative, under 35 U.S.C. 103(a) as obvious over Davies et al (US Pat No:

US006003083A), hereafter referred to as Davies.

1. With regards to claims 1, 11 and 20, Davies teaches a method (a method is able

   to be an apparatus and a program) for balancing load among a plurality of mirror

   servers, wherein a user may select and get access to any one of said plurality of

   mirror servers within an identical web page, said method comprising the steps of:

   a. When said web page is access by a client, transmitting not only said web

      page but also a predetermined script to said client (Davies' design has a

      number of servers from which services are provided to satisfy the request

      of a client (column 3, line 60 – column 4, line 12, Davies). In addition, a

      program is provided to the client and run from the client by which to carry

      out the workload management (column 4, lines 21-25, Davies));

   b. Automatically executing said script at said client so as to respectively

      create connections with each of said plurality of mirror servers and

      measure respective response times (It is inherent that the script (program)

      will be run. However, this step is stated in Davies' disclosure as well

      (column 4, lines 21-25, Davies));

      c. Selecting a mirror server having the shortest response time for the users

         to access (Davies discloses how the selection of the best server for a

         certain task saves time (column 4, lines 43-49, Davies)).

2. With regards to claims 2 and 12, Davies teaches the method (a method is able to

be an apparatus) wherein said predetermined script is transmitted together with

said web page to said client (A program is provided to the client and run from the

client by which to carry out the workload management (column 4, lines 21-25,

Davies)).

3. With regards to claim 3, Davies teaches the method wherein said automatically

executing script comprises the steps of:

      a. Calling a predetermined engine by said client; and

      b. Executing said script by said engine, comprising creating connections with

         each of said plurality of mirror servers and measuring respective response

         times

(Davies' design has the program (script) perform workload management and

select the optimal server for a given task for the client (column 3, line 60 –

column 4, line 49, Davies). In addition, Davies states that this program is run

to perform these tasks (which is inherent). It is also inherent that an engine is

called to execute a program (script), as claimed. Furthermore, since the

design is able to select a certain server out of a group of servers. To perform

such a task, it is inherent that the claimed means for creating connections are also present within Davies' design).

4. With regards to claims 4 and 13, Davies teaches the method (a method is able to be an apparatus) wherein said executing said script is performed in a multi-thread manner for said plurality of mirror servers (The use of multiple threads is very common in programs (scripts). This fact is especially true in network related programs).

5. With regards to claims 5 and 14, Davies teaches the method (a method is able to be an apparatus) further comprising sending the client information to the mirror servers being connected (It is inherent that when a client makes a request to a server to perform the task, the server will receive information about the client as claimed. This must occur since the task performed must be compatible with the client setup).

6. With regards to claims 6 and 15, Davies teaches the method (a method is able to be an apparatus) wherein said client information includes at least one of IP address, domain name, platform name, platform version, and browser type of said client (It is inherent that when a client makes a request to a server to perform the task, the server will receive information about the client as claimed. This must occur since the task performed must be compatible with the client

setup. The information claimed is all relevant information for a server in order to properly fulfill a client request).

7. With regards to claims 7 and 16, Davies teaches the method (a method is able to be an apparatus) wherein said connections are created through proxies (Davies' design uses an IP router as a proxy (Figure 2, Davies)).

8. With regards to claims 8 and 17, Davies teaches the method (a method is able to be an apparatus) wherein said script can be re-started by said user (It is inherent that a script can be re-started as claimed).

9. With regards to claims 9 and 18, Davies teaches the method (a method is able to be an apparatus) further comprising comparing respective response times of said plurality of mirror servers (Davies' design determines which server will be able to perform the task in the shortest time (column 4, lines 43-49, Davies). It is inherent that the claimed comparison of times occurs while determining which server is to be selected).

10. With regards to claims 10 and 19, Davies teaches the method (a method is able to be an apparatus) further comprising the steps of:

   a. Notifying said user of the mirror server having the shortest response time;

b. Getting access by the user to the mirror server of which said user has

been notified

(The claimed process of notifying the user must occur since a single server

performs the requested task out of a number of servers (column 3, line 60 –

column 4, line 42, Davies). The workload management resides in the client

and hence the client must know about the chosen server. In addition, Davies

states that the client's requests are fulfilled by the chosen server, hence the

claimed access is granted to the user).

Remarks

The applicants' application has been carefully reviewed but the examiner has

failed to observe any traits that would describe the design as being unique. The prior

art used, deals with load balancing with servers fulfilling client requests. The claimed

web site access is a client request and hence the prior art used, actually encompasses

greater details and functionality than those presented in the claims. Should the

applicants feel that there are in fact features that do make their design more unique

than the one presented in the prior art, they are advised to amend the claims to point

out the more defined traits of their design.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is 703-305-7209. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AC

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SUPERVISORY PATENT EXAMINER
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